

SERVICE DATE – LATE RELEASE MAY 12, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-586 (Sub-No. 2X)

NORTH CENTRAL RAILWAY ASSOCIATION, INC.—ABANDONMENT EXEMPTION—  
IN HARDIN COUNTY, IA

Decided: May 12, 2006

North Central Railway Association, Inc. (NCRA), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon and discontinue service over a 10.54-mile line of railroad between milepost 201.46, near Ackley, IA, and milepost 212.00, near Steamboat Rock, IA, in Hardin County, IA.<sup>1</sup> Notice of the exemption was served and published in the Federal Register on April 13, 2006 (71 FR 19235-36). The exemption is scheduled to become effective on May 13, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in the proceeding on April 18, 2006, setting forth environmental concerns and recommending that conditions be imposed on any decision granting abandonment authority. In the EA, SEA indicated that Federal and state agencies had not provided comments regarding the proposed abandonment. Based on the limited information available, SEA stated that it could not fully determine whether salvage activities would cause significant environmental impacts on the area surrounding the right-of-way. SEA, therefore, provided a copy of the EA to the following agencies for review and comment: U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS); Iowa Department of Natural Resources Environmental Protection Division (IDNR); Iowa Trails Council, Inc.; U.S. Fish and Wildlife Service (USFWS); U.S. Environmental Protection Agency (USEPA); U.S. National Geodetic Survey (NGS); the U.S. Army Corps of Engineers (Corps); and appropriate local and state agencies. Accordingly, SEA recommends that NCRA consult with the above-referenced agencies prior to commencement of any salvage activities.

SEA also notes in the EA that the Iowa State Historic Preservation Office (SHPO) has not completed its evaluation of the potential impact of this project on historic resources. Accordingly, SEA recommends that NCRA be required to retain its interest in and take no steps

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<sup>1</sup> NCRA's notice of exemption identified the issue line as an 11.70-mile rail line, from milepost 200.30 to milepost 212.00. Subsequently, NCRA was advised of an ongoing need for car interchange and switch moves over a portion of the line between mileposts 200.36 and 201.46. Therefore, by letter filed on March 31, 2006, NCRA amended its notice to pertain to the line segment from milepost 201.46 to milepost 212.00.

to alter the historic integrity of all sites and structures on the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due May 3, 2006. A comment from NGS identified one geodetic survey marker within the right-of-way. If markers would be disturbed by the proposed abandonment, NGS requests 90 days' notice so that attempts can be made to relocate the affected markers. Accordingly, SEA recommends that NCRA notify NGS at least 90 days prior to beginning salvage activities so that NGS can plan for the possible relocation of any affected geodetic station markers.

On April 26, 2006, the Iowa Trails Council (Council), on behalf of itself and Hardin County Conservation Board, filed a request for issuance of a public use condition under 49 U.S.C. 10905.<sup>2</sup> Under section 10905, the Board may prohibit disposal of rail properties that are proposed to be abandoned and are appropriate for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

To justify a public use condition, a party must set forth: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for the period of time requested. See 49 CFR 1152.28(a)(2). Because the Council has satisfied these requirements, a 180-day public use condition will be imposed, commencing from the May 13, 2006 effective date of the exemption.

We note that a public use condition is not imposed for the benefit of any one potential purchaser. Rather, it provides an opportunity for any interested person to negotiate to acquire the right-of-way that has been found suitable for public purposes. Therefore, with respect to the public use condition, NCRA is not required to deal exclusively with the Council, but may engage in negotiations with other interested persons.

Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on April 13, 2006, exempting the abandonment of the line described above, is modified to the extent

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<sup>2</sup> In the April 26, 2006 filing, the Council, on behalf of itself and the Hardin County Conservation Board, also requested the issuance of a notice of interim trail use for the line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29. The Board will address that request in a later decision.

necessary to permit public use negotiations as set forth below, for a period of 180 days commencing from the May 13, 2006 effective date of the exemption (until November 9, 2006), and is subject to the conditions that, prior to commencement of any salvage activities, NCRA shall: (1) consult with the Corps regarding its requirements and, if applicable, comply with its reasonable requirements; (2) consult with USEPA to ensure that any concerns regarding potential contamination of the right-of-way and applicable stormwater management requirements are addressed, and report the results of these consultations in writing to SEA; (3) consult with USEPA and IDNR to ensure appropriate consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, and comply with the reasonable NPDES requirements; (4) consult with USFWS regarding potential impacts from salvage activities to Federally listed threatened and endangered species that may occur in the vicinity of the line, and report the results of these consultations in writing to SEA; (5) consult with NRCS to determine whether there will be any impacts to prime farmland and wetlands; (6) notify NGS at least 90 days prior to salvage activities so that NGS can plan for the possible relocation of any affected geodetic station markers; and NCRA shall also: (7) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places until the section 106 process of the NHPA has been completed; and (8) cease all work and notify SEA, interested Federally recognized tribes, and the SHPO, if any cultural resources (such as archaeological sites, human remains, funerary items or associated artifacts) are discovered during NCRA's salvage activities.

3. Consistent with the public use condition imposed in this decision, NCRA may discontinue service and salvage track and related materials. NCRA shall keep intact the right-of-way, including bridges, trestles, culverts and tunnels, for a period of 180 days to enable any state or local government agency, or other interested person, to negotiate the acquisition of the line for public use.

4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary